Testimony by the American Federation of State, County & Municipal Employees

In Opposition to Executive Budget Proposals Which Eliminate Vital Services

For Ohioans with Intellectual and Developmental Disabilities

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Presented to the Ohio House of Representatives

Senate Finance Subcommittee on Health and Human Services

Chairman Robert Sprague and Ranking Member Emilia Sykes,

Members Barbara Sears, Nickie Antonio and Mark Romanchuk

Chairman Sprague, Ranking Member Sykes and members of the committee,

Thank you for this opportunity to speak before you today. My name is Sally Tyler and I am the senior health policy analyst for the American Federation of State, County & Municipal Employees, a union representing 1.6 million members throughout the United States. Our members do a wide variety of jobs, and those who provide services to individuals with intellectual and developmental disabilities work throughout the full continuum of program and residential settings.

Here in Ohio, our union is represented by Council 8, the Ohio Civil Service Employees Association/Local 11 and the Ohio Association of Public School Employees/Local 4. Each of these councils and local unions represents members, at either the state or county level, who provide services to individuals with intellectual and developmental disabilities, and who would be severely harmed by the proposed budget.

We share our affiliates' extreme concern that the executive budget to "Enhance Community Developmental Disabilities Services" will eliminate highly specialized homes, work and program settings that are of critical importance to those with intellectual and developmental disabilities. Further, these proposals risk losing the finely-honed expertise that hundreds of workers throughout the state have developed through decades of providing vital services.

While you have heard, and will continue to hear, testimony from some of our members about the work they do and from many individuals and families who benefit from the services they

provide, my testimony today will focus on national policy trends regarding service provision within the field of intellectual and developmental disabilities, and particularly will attempt to clarify misperceptions surrounding requirements of the federal Medicaid community settings rule.

The national trend regarding intellectual and developmental disabilities services over the past decade includes creation of new programs and residences in home and community-based settings. The ultimate aim of creating services in new settings should be to support a greater degree of consumer choice. Our union supports services throughout the continuum of settings, but the creation of residences and services in new settings should not necessitate the elimination of excellent services that are currently being provided in more traditional settings. This is particularly true when we recall that there are more than 40,000 individuals with intellectual or developmental disabilities who are waiting for services in Ohio.

Legislators and other policy-makers cannot afford to look at this demand for services as an either/or equation, but unfortunately it is frequently framed in this way. A budget which starves these vital services in general forces advocates for various settings to fight over the same narrow piece of the pie, when the true answer should be to enlarge the pie, so that all the waiting individuals can be served, honoring all consumer choices.

We echo the call of our affiliates to preserve the vital function of existing developmental centers, intermediate care facilities and sheltered workshops in the immediate future, while taking a more deliberate long term approach to developing additional services, which would include establishing a state facilities closure commission and creating publicly-operated small residences in the community.

We call to the committee's attention the fact that many states maintain state-operated residences for fewer than six individuals with intellectual and developmental disabilities. These include Connecticut, Georgia, Minnesota, Mississippi, Missouri, New Jersey, New Mexico, New York, Oregon, Rhode Island, Tennessee, Texas and Washington.

Much of this budget proposal call for facility closure and elimination of services stems from the misguided assumption, perhaps promoted by the Office of Health Transformation, that current services will violate the new Medicaid rule regarding community settings. This is simply not true.

A guidance bulletin released by the Centers for Medicare and Medicaid Services (CMS) in January helps to clarify these misconceptions.

Of particular interest for the work of this committee:

- The regulation does not prohibit facility-based or site-based settings. Further, the guidance particularly notes that the regulation only establishes a floor for federal participation and that states have flexibility in determining whether or when to offer home and community based services in facility-based or site-based settings.

- The regulation does not specify a limit on the number of individuals who may reside in a particular setting. In fact, the rule focuses on the qualities expected within a home and community-based setting which underpin consumer choice and person-centered planning, rather than define such a setting in quantitative terms regarding the number of residents. To quote the guidance: "Even a very small residential setting may have policies that restrict individual access to things such as food and telephone use that would not be consistent with HCB requirements, while facilities that serve a larger number of individuals may have structured their system in a manner that comports with the qualities required."
- The regulation does not prohibit individuals from receiving pre-vocational services in a facility-based setting such as a sheltered workshop. The guidance specifies that states have flexibility in determining whether and when to use such facility-based settings, again stressing that the individuals access to the greater community is the defining characteristic for compliance. To quote the bulletin: "A state could allow pre-vocational services delivered in facility-based settings that encourage interaction with the general public."

In short, the alarmists who have said that the new CMS rule requires immediate elimination of some existing public services because of the setting in which they are currently provided here in Ohio are incorrect. Instead, the community settings rule lays out clear expectations about the person-centered emphasis and access to broader community required for compliance, and then allows states the flexibility to determine which of their current settings meet the guidelines or how they can be made compliant.

Although some of the short-term decisions within this budget focus on the question of providing services to those with intellectual and developmental disabilities, they will have lasting impact on the way Ohio structures its system of long-term services and supports (LTSS), which will affect the provision of services to seniors and those with physical disabilities, as well, and which will be in even greater demand in coming years. This necessitates a deliberate and thoughtful approach to planning new services and modifying existing ones, rather than the drastic step of closing facilities while capacity within the community is still so lacking.

We call the committee's attention to the State of New York's Medicaid Redesign Team (MRT), a

multi-stakeholder effort which launched in 2011 with the goal of transforming the state's Medicaid program. One of its primary components is transitioning much of its LTSS into home and community-based settings. Even though the program began four years ago, the state put out its first RFP for the development of supportive housing only last week. The supportive housing initiative will roll out gradually over three years, with evaluation components built in to measure the coordination of service and consumer satisfaction in the new housing arrangements. This reflects the deliberate and incremental nature needed to create positive, long-term change.

Further, the state issued a memorandum of understanding with our union during the first wave of deinstitutionalization in the 1970's which included a commitment to the state ID/DD workforce in the development of a group home system. Now the state has both publicly and privately-operated group homes, and the state workforce is also represented in regard to discussions of the MRT.

This stands in contrast to the secret deliberation and hasty pronouncements that have characterized much of the work of the Office of Health Transformation in regard to ID/DD services. I remind the committee that our members are key stakeholders in the future of ID/DD service provision, and must be included in decisions about system transition, or else the state stands to lose the wealth of knowledge and experience they hold. And of course, those with the most to lose under such a scenario would be individuals with ID/DD, both those who currently benefit from state-provided services and those who are desperately waiting for them.

In conclusion, we urge this committee to show the leadership necessary to approach this critical juncture in a deliberative fashion that will help transition the workforce, but preserve the services they provide. Our members want nothing more than to continue this work, and individuals with ID/DD deserve nothing less than the commitment to excellent service they provide.

I thank you for this opportunity today, and will be happy to take questions.